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AUG 18 2005

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In re Application of
Todd W. Atrim, et al.
Application No. 10/661,338
Filed: September 12, 2005
For: **METHOD FOR PROVIDING TELEPHONE
SERVICES FOR COMMERCIAL CLASSES OF
SERVICE**

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:
: DECISION ON PETITION
: TO WITHDRAW HOLDING OF
: ABANDONMENT
:

This is a decision on the Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed July 15, 2005. No fee is required.

This application was held as abandoned for failure to timely respond to the non-final Office action mailed on August 26, 2005. A Notice of Abandonment was mailed May 19, 2005.

Petitioner alleges that the non-final Office action was not received.

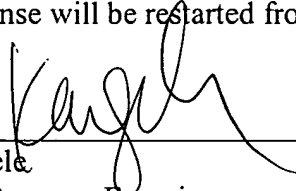
The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has not fully complied with the requirements set forth above. However, a review of the application record finds an irregularity in the mailing of the Office action. The "Utility Patent Application Transmittal" filed September 12, 2003 provided practitioner's customer number as "2685". Accordingly, the non-final Office action mailed August 26, 2004 was mailed to the Los Angeles, California address associated with customer number "2685". However, a search of PTO customer records finds that the correct customer number for the practitioner that filed the instant application is customer number "26285". Accordingly, there was an irregularity in mailing of the Office action as a result of an incorrect customer number (e.g. correspondence address) being provided by the practitioner at the time of filing of the application. Therefore, the Office did in fact mail the non-final Office action to an incorrect correspondence address. In view thereof, there was an irregularity in the mailing of the non-final Office action on August 26, 2004, as it was mailed to an incorrect correspondence address. Taken together with the docket records and statements filed with the petition on July 15, 2005 it is deemed that the Office action was not received by either the former practitioner of record or

the current practitioner of record. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

Given the original mailing date of the non-final Office action, the application will be returned to the examiner for updates as appropriate and generation of a new Office action. The time period for response will be restarted from the mail date of the new Office action.



Krista Zele
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Communications